

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

KENNY TUCKER

PLAINTIFF

NO. 3:05CV00137 JTR

JO ANNE B. BARNHART,
Commissioner, Social
Security Administration

DEFENDANT

ORDER

Pending before the Court is Plaintiff's Motion for an Award of Attorney's Fees and Other Expenses Under the Provisions of the Equal Access to Justice Act ("EAJA") and a Memorandum in Support (docket entries #14 and #15). Defendant has filed a Response (docket entry #17). For the reasons set forth herein, the Motion will be granted.

On June 17, 2005, Plaintiff filed this action challenging the decision of an Administrative Law Judge ("ALJ") denying him social security benefits (docket entry #2). On June 19, 2006, the Court entered a Memorandum and Order and Judgment (docket entries #12 and #13) remanding the case to the ALJ pursuant to sentence four of 42 U.S.C. § 405(g) and *Melkonyan v. Sullivan*, 501 U.S. 89 (1991).

On August 21, 2006, Plaintiff's attorney, Mr. Anthony W. Bartels, filed a Motion for an Award of Attorney's Fees and Other Expenses Under the Provisions of the EAJA. In this Motion, Mr. Bartels seeks payment for attorney time as follows: (1) .65 hours of work performed during 2004 at the adjusted hourly rate of \$152.00 ; and (2) 13.75 hours of work performed during 2005-2006 at the adjusted hourly rate of \$156.00.¹ Mr. Bartels also seeks payment for 5.65 hours of

¹These hourly rates were taken from an agreement between The Bartels Law Firm and the Office of General Counsel of the Social Security Administration. (Docket entry #15.)

paralegal time at the rate of \$65.00 an hour and \$13.95 in expenses. Defendant does not object to the requested amounts for attorney's fees and expenses.

After carefully reviewing the itemized statement of counsel attached to the Memorandum in Support of Motion for an Award of Attorney's Fees, it appears no legal work was performed for Plaintiff during 2004. However, during 2005-2006, attorneys performed 7.20 hours of work at the adjusted hourly rate of \$156.00. The number of hours of work performed by a paralegal was 3.80.

Under these circumstances, the Court concludes that Plaintiff is entitled to an award of fees and expenses under the EAJA, and that the amount requested by Plaintiff's attorney, after adjusting for the miscalculations in the number of hours of work performed by an attorney and a paralegal, is reasonable. Accordingly, Plaintiff's attorney shall receive a total award of \$1,384.15, which includes: (1) 7.20 hours of attorney time at the rate of \$156.00 per hour (\$1,123.20); (2) 3.80 hours of paralegal time at the rate of \$65.00 per hour (\$247.00); and (4) \$13.95 in expenses.

IT IS THEREFORE ORDERED that Plaintiff's Motion for an Award of Attorney's Fees Pursuant to the Equal Access to Justice Act (docket entry #14) is hereby GRANTED.

IT IS FURTHER ORDERED that the Commissioner shall certify and pay to Mr. Anthony W. Bartels, attorney for Plaintiff, \$1,384.15, which has been awarded as fees and expenses pursuant to the EAJA.

DATED this 10th day of October, 2006.


UNITED STATES MAGISTRATE JUDGE